

consumer confusion; the damages Plaintiff contends that it is entitled to recover; Defendant's affirmative defenses; which party has senior rights in relevant geographies; and third party use of FORMA.

- (b) Fact discovery will commence with the production of initial disclosures on **August 7, 2023**. Fact discovery will be completed no later than **April 15, 2024**.
- (c) Each side (that is, Plaintiff, on the one hand, and Defendant on the other hand) may serve the maximum number of interrogatories allowed, in accordance with Rule 33. Answers to interrogatories are due in accordance with Rule 33 and in any event no later than the deadline for completion of fact discovery, **April 15, 2024**.
- (d) Each side (that is, Plaintiff, on the one hand, and Defendant on the other hand) may serve the maximum number of requests for admission allowed, in accordance with Rule 36. Answers to requests for admission are due in accordance with Rule 36 and in any event no later than the deadline for completion of fact discovery, **April 15, 2024**.
- (e) Each side (that is, Plaintiff, on the one hand, and Defendant on the other hand) may take the maximum number of depositions allowed, in accordance with Rule 30. Depositions of fact witnesses will be completed no later than the deadline for completion of fact discovery, **April 15, 2024**.
- (f) The duration of the depositions will be governed by Rule 30(d)(1).
- (g) Expert discovery will run concurrently with fact discovery. The parties will exchange expert witness reports, if any, no later than **February 15, 2024**. Rebuttal expert reports must be served no later than **March 15, 2024**. The parties shall complete all expert discovery, including expert depositions, no later than **April 15,**

2024.

- (h) All supplementations will be made and will be due per Rule 26(e) of the Federal Rules of Civil Procedure.
- (i) Electronically stored information (“ESI”) shall be produced pursuant to Rule 34 of the Federal Rules of Civil Procedure. The parties will separately provide a stipulation as to the specific details regarding the production of ESI.
- (j) Issues regarding protection of trial preparation materials shall be governed by the Federal Rules of Civil Procedure and the Federal Rules of Evidence. Documents and other materials deemed by a party to be privileged shall be so indicated prior to production. All documents and other materials marked privileged shall be sealed and not made a part of the public record. The parties anticipate that they will make a Joint Motion for Protective Order prior to the exchange of any documents. The parties further anticipate that their proposed Protective Order will include a "clawback" provision along the lines of what is contemplated in Federal Rule of Evidence 502(d) & (e).

4. Other Items:

- (a) The parties do not request a hearing with the Court prior to the entry of a Scheduling Order.
- (b) The parties request a pre-trial conference with the Court be scheduled **90 days** after the close of discovery, or, in the alternative, **90 days** after the Court rules on any dispositive motions, whichever is more convenient for the Court.
- (c) The parties may amend the pleadings and/or join parties until **September 29, 2023**

unless otherwise stipulated by the parties or given leave by the Court.

- (d) Dispositive motions must be filed no later than **30 days** after the close of discovery.
- (e) The parties have had discussions concerning settlement. No settlement is imminent at this time. However, the parties will continue to discuss settlement as appropriate.
- (f) The parties believe that mediation will enhance settlement prospects and further believe that mediation will be most productive if done after the parties have had the opportunity to conduct at least some discovery.
- (g) The final date to submit witness lists, exhibit lists, and other information required by Rule 26(a)(3) should be the same date as the pre-trial conference.
- (h) The final date to file objections under Rule 26(a)(3) should be 14 days following service of the witness list, exhibit list, or other information.
- (i) This matter should be ready for trial by **30 days** after the pre-trial conference. The parties currently anticipate that the trial of this matter can be completed within **three (3) days**.

Date: July 12, 2023

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